

BEFORE THE
UNITED STATES TRADE REPRESENTATIVE

STEEL 201: STEEL

NON-CONFIDENTIAL VERSION

Business confidential information has been
deleted from pages 5 and 9 and Exhibits 1 and 2.

REQUEST FOR EXCLUSION OF API GRADE
AND HEAVY GRADE SLABS

On Behalf Of

Oregon Steel Mills, Inc.

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I. EXECUTIVE SUMMARY

API grade and heavy grade slabs should be excluded from any import restrictions imposed on slabs pursuant to the pending Section 201 investigation. API grade slabs are used by Oregon Steel to produce specialty, high-pressure line pipe used by oil and gas companies. These slabs must be produced to exacting technical specifications to ensure that the line pipe produced from these slabs meets the pipe purchaser's technical requirements. No U.S. steel mill is willing or able to meet Oregon Steel's requirements for API grade slabs. In fact, only eight mills in the world produce them to the necessary specifications.

Similarly, heavy grade slabs are required by Oregon Steel in the production of certain heavy gauge plate used in heavy machinery applications. These slabs are produced using special equipment and expertise. Only one U.S. steel producer--Bethlehem Lukens--produces heavy grade slabs. Bethlehem Lukens, however, captively consumes all of their heavy slabs in the production of downstream products. Thus, domestic heavy grade slabs generally are not available for sale in the U.S. merchant market; they are produced by only three mills located in Belgium, Brazil, and Canada in the thicknesses required by Oregon Steel.

II. API GRADE AND HEAVY GRADE SLABS SHOULD BE EXCLUDED FROM ANY REMEDY IMPOSED

If, contrary to the positions of AK Steel, California Steel, Duferco Farrell, and Oregon Steel, import restrictions are imposed on slabs, API grade and heavy grade slabs should be excluded from the measure imposed pursuant to the pending Section 201 investigation.

The statute provides that import restrictions may be imposed "only to the extent the cumulative impact of such action does not exceed the amount necessary to prevent or remedy serious injury."¹ If an imported article, however, does not injure or threaten the domestic

¹ 19 U.S.C. § 2253(e)(2).

industry with injury--either because it is not produced by the domestic industry or is produced in such limited quantities that it is in short supply in the domestic market--the statute suggests that any remedy that includes those products would exceed the amount necessary to prevent or remedy serious injury.

In previous Section 201 cases, the President excluded from the scope of the relief certain specialty products that were not reasonably available in the domestic market. For example, in Certain Steel Wire Rod the President excluded eight steel wire rod products from the tariff-rate quotas imposed,² presumably upon the finding of the International Trade Commission that these products were either not available from domestic suppliers or were not available in commercially significant volumes.³

Similarly, as detailed below, API grade slabs are not produced in the United States and heavy grade slabs are produced by only one U.S. steel mill that captively consumes almost all of its production of the product. Thus, imports of these products cannot contribute significantly to serious injury, and any remedy imposed on them would be in excess of that needed to remedy or prevent serious injury.

² Proclamation 7273--To Facilitate Positive Adjustment To Competition From Imports Of Certain Steel Wire Rod, 65 Fed. Reg. 8,621, 8,621 (2000).

³ Certain Steel Wire Rod, USITC Pub. 3207, Inv. No. TA-201-69 (1999), at I-56 & n.12 (Remedy Recommendation of Vice Chairman Miller and Commissioner Koplan) (“We also believe that the exclusion of these imports supports our efforts to limit the relief only to the extent necessary to remedy the injury we have found.”)

A. API Grade Slabs

1. Basis for exclusion

API X-70 and greater slabs are used in the manufacture of large diameter (IE 16 to 42 inch) high-pressure line pipe. This pipe is typically purchased and used by major oil and gas companies in the United States.

No domestic mill was capable of producing API X-70 grade slabs in 1999.⁴ In fact, according to Steve Rowan, the Vice President of Materials and Transportation for Oregon Steel, “[m]any foreign and domestic mills have repeatedly declined even to attempt trial production runs of the X-70 grades, because of the difficulty in producing these grades.”⁵ For example, Geneva Steel, located in Provo, Utah, does “not want to produce API X-70 slab because of the inherent difficulty associated with these grades.”⁶

API-grade slabs must be produced on special equipment. All suppliers of API-grade slabs to Oregon Steel use a “vacuum degasser . . . as a precaution against surface defects and potential slab cracks.”⁷

2. Product designation and characteristics

The API grade slabs for which Oregon Steel is requesting an exclusion are designated as American Petroleum Institute (“API”) 5L X-70 and X-80. They are imported into the U.S. under HTS number 7207.12.00 (iron and non-alloy steel) or HTS number 7224.90.00 (alloy steel), and their physical characteristics are as follows:

⁴ Exhibit 1 ¶ 9 (Affidavit of Steven Rowan, dated Sept. 26, 2001).

⁵ Id. ¶ 14.

⁶ Id. ¶ 24.

⁷ Id. ¶ 24.

Carbon	.03% to .08% depending on sweet or sour service carbon range \pm .01%
Manganese	1.40% to 1.60% with maximum .15% range in total
Vanadium	.04% to .06% with a .01% range
Niobium	.03% to .08% with a .01% range
Titanium	Additions
Silicon	Additions
Sulfur	Absolute maximum of .0050% with special inclusion shape control

All slab sequences must undergo macro etch testing with at least five tests per slab sequence.

The rating on the Mannesmann scale of 0 to 4 must be a 0 or 1. Typical sizes are 72" to 100" wide and 100" to 135" inches long. All slab cutting must be done in excess of 250°C. Finally, the producing mill must guarantee a maximum of 20° F to 30° F superheat.

Oregon Steel uses these slabs to manufacture high-pressure line pipe. While the specifications listed above are the general specifications published by API for 5L X-70 and X-80 slabs, Oregon Steel usually requires slabs of more exacting chemistries and mechanical properties that are dictated by the requirements of the final pipe purchaser. To meet the pipe purchaser's requirements, the conditions of steel-making and slab production are closely monitored by Oregon Steel. Oregon Steel establishes very strict processing parameters with each slab producer to ensure that the final pipe product will meet the customer's requirements. To achieve this level of control, Oregon Steel develops with each slab producer from whom it purchases API grade slab a technical protocol and manufacturing procedure specification sheet.

3. Domestic and foreign producers

To Oregon Steel's knowledge, no U.S. mill is capable of producing API grade slabs to the exacting specifications required by Oregon Steel. Oregon Steel has approached several domestic producers, including Geneva Steel, about manufacturing API grade slabs. Domestic producers were either incapable or unwilling to meet all of Oregon Steel's technical requirements.

The following foreign mills are capable of producing API grade slabs of the specifications required by Oregon Steel and its customers: (1) Usiminas in Belo Horizonte, Brazil; (2) Ekostaal in Eisenhuttenstadt, Germany; (3) HKM in Duisberg, Germany; (4) Posco in Pohang, Korea; (5) Ispat Mexicana in Lazaro, Mexico; (6) Kawasaki in Mizushima, Japan; (7) Nippon in Kimitsu, Japan; and (8) Sumitomo in Kashima, Japan.

4. Estimated U.S. consumption

Oregon Steel's best estimate of the total U.S. consumption of API grade slabs from 1996 to 2000 is as follows:

	1996	1997	1998	1999	2000
Quantity (tons)	50,000	50,000	100,000	350,000	20,000
Value (\$)	12 million	12 million	25 million	75 million	5 million

These estimates are based on Oregon Steel's general knowledge of the steel pipe manufacturing business in the United States.

The chart below details Oregon Steel's five year forecast of its own consumption of API grade slabs. This forecast is based on assumptions concerning Oregon Steel's manufacturing operations and expected demand for the steel pipe products produced from API grade slab.

	2001	2002	2003	2004	2005
Quantity (tons)	[]
Value (\$)	[]

5. Estimated U.S. production

To Oregon Steel's knowledge, no U.S. producer is capable of meeting the rigorous technical specifications for the API grade slabs required by Oregon Steel.

6. U.S. produced substitutes

For the production of pipe that Oregon Steel supplies to oil and gas companies, there are no U.S. produced substitutes for the slabs Oregon Steel requires.

B. Heavy Grade Slabs

1. Basis for exclusion

Oregon Steel uses heavy grade slabs of over ten inches (usually 10 to 16 inches thick) to produce heavy gauge plates of four inches and over. Heavy gauge plates are used in heavy industry machine applications such as large scale machinery (e.g., Terex), machine bases and parts of over four inches, and mining equipment (including, blades, dogs, and other equipment over four inches). They may also be “burned” into smaller thick parts such as gussets.

Heavy grade slabs generally are not continuously cast from molten steel; they are produced from ingots. Thus, producers must have special equipment capable of producing heavy ingots or the equipment and expertise to cast slabs of 16 inches or greater. In light of these special production capabilities, only five to six mills worldwide produce these heavy grade slabs. Oregon Steel does not produce slabs of this thickness and has been unable to source them from any other U.S. producer of flat steel products.⁸

2. Product designation and characteristics

The following is a list of the product designations and HTS headings for the heavy grade slabs purchased by Oregon Steel:

<u>Product Designation</u>	<u>HTS Heading</u>
A36	7207
A572	7207
SAE 1018	7207
SAE 1040 Mod	7207
SAE 1045 Mod	7207
SAE 1060	7207
SAE 4130	7224
SAE 4142	7224
SAE 8620	7224

⁸ Exhibit 2 ¶ 9 (Affidavit of Steven Rowan, dated Sept. 5, 2001).

The heavy grade slabs purchased by Oregon Steel are different from other types of slabs because the range in thickness is very high; generally they are purchased in the range of 10 inches to 16 inches thick.

3. Domestic and foreign producers

Oregon Steel is aware of only one U.S. producer of heavy grade slabs with the specification described above: Bethlehem Lukens, with facilities in Pennsylvania, Maryland, and Indiana. To Oregon Steel's knowledge, however, Bethlehem Lukens captively consumes almost all of the slabs it produces and has never offered them for sale.

The following foreign mills produce heavy grade slabs of the specifications required by Oregon Steel: Forges de Clabecq in Belgium, Açominas in Brazil, and Wuyang in China.

4. Estimated U.S. consumption

The following chart provides Oregon Steel's best estimates of U.S. consumption of heavy grade slabs from 1996 to 2000 and forecast of U.S. consumption from 2001 to 2005. These estimates are based on Oregon Steel's knowledge of the consumption patterns of the industries consuming large scale machinery and mining equipment for which steel products manufactured from heavy grade slabs are used.

	1996	1997	1998	1999	2000
Quantity (tons)	20,000	15,000	15,000	20,000	45,000
Value (\$)	5 million	4 million	4 million	5 million	11 million

	2001	2002	2003	2004	2005
Quantity (tons)	30,000	35,000	40,000	40,000	45,000
Value (\$)	8 million	9 million	10 million	10 million	12 million

5. Estimated U.S. production

To Oregon Steel's knowledge, Bethlehem Lukens is the only domestic producer capable of producing the heavy grade slabs listed above. Oregon Steel is unable to devise a method of estimating Bethlehem Luken's production of these slabs.

6. U.S. produced substitutes

To produce heavy gauge plates with metallurgical properties that meet established standards, only heavy grade slabs of the thicknesses described above may be used. Thus, there are no substitutes for slabs of these thicknesses.

III. CONCLUSION

In sum, API grade slabs are used by Oregon Steel to produce specialty, high-pressure line pipe used by oil and gas companies. These slabs are extremely difficult to produce and require special production equipment and expertise. Only eight steel mills in the world produce them to the specifications required by Oregon Steel and its customers. In fact, no U.S. steel mill produces slabs meeting Oregon Steel's requirements.

Similarly, heavy grade slabs are required by Oregon Steel in the production of certain heavy gauge plate used in heavy machinery applications. These slabs are: (1) produced using special equipment and expertise, (2) produced in the thicknesses required by Oregon Steel by three mills worldwide, and (3) produced by only one U.S. steel producer that captively consumes all the slabs it produces. Thus, heavy grade slabs of over ten inches generally are not available for sale in the U.S. merchant market.

Consequently, in accordance with the statute, the President should exclude both heavy grade slabs and API grade slabs from the scope of any import restrictions on slabs pursuant to the pending Section 201 investigation. Failure to do so will result in significant harm to the operations of Oregon Steel because it will be unable to obtain a raw material necessary in the

production of well over [] percent of its products.⁹ Such a result would be inconsistent with the statute's requirement that the remedy imposed "provide{s} greater economic and social benefits than costs."¹⁰

Respectfully submitted,

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⁹ Id. ¶

¹⁰ 19 U.S.C. § 2253(a)(1)(A).

Exhibit 1 (NON-CONFIDENTIAL)

AFFIDAVIT OF STEVEN M. ROWAN

1. My name is Steve Rowan. I am the Vice President of Materials and Transportation for Oregon Steel Mills, Inc. I have been with Oregon Steel for 29 years and have held my current position since 1992. I have been responsible for purchasing slabs for the last 12 years. I have personal knowledge of the facts and information set forth below.
2. Headquartered in Portland, Oregon, Oregon Steel manufactures and markets one of the broadest lines of specialty and commodity steel products of any domestic mini-mill company. Our diverse customer base is located primarily west of the Mississippi River. In 2000, Oregon Steel shipped 1.6 million tons of finished steel products.
3. At our mill in Portland, Oregon, we make steel in an electric arc furnace ("EAF") and pressure cast slabs in graphite molds. The pressure casting process forms slabs that are 6 to 8 inches thick, 7.5 to 8.5 feet wide, and 30 to 33 feet long.
4. Virtually all of the company's slabs are captively consumed to make cut-to-length plate and coiled plate at the mill in Portland. The coiled plate is both sold in the merchant market and is also captively consumed to make large diameter pipe at our mills in Napa, California, and Camrose in Alberta, Canada. Oregon Steel's flat-rolled and tubular products are sold primarily to steel service centers, heavy equipment manufacturers, railcar and barge manufacturers, construction companies, and pipeline manufacturers.

5. Up until 1997, our mill in Portland had more melting capacity than finishing capacity. Oregon Steel used to ship slabs down to our plate mill in Fontana, California, roll them into plate and ship the plate to our pipe mill in Napa, California. This was not a very efficient arrangement and it added to our costs.

6. When demand for line pipe eroded in 1994, Oregon Steel closed the Fontana plate mill. That subtracted more than half the company's plate capacity and restricted plate widths to under 102 inches. As a result, our plate shipments fell from about 715,000 tons in 1994 to about 435,000 tons in 1995. Pipe shipments also fell -- from about 450,000 tons in 1994 to about 270,000 tons in 1995.

7. In 1997, Oregon Steel commissioned a new Steckel combination rolling mill (the "Combination Mill") at our facility in Portland. Attachment A to this affidavit is a description of the mill that appeared in the November 1998 issue of Iron and Steel Engineer. The Combination Mill can roll both discrete plate up to 138 inches wide and coiled plate up to 120 inches wide. These widths put us well above the 70 to 80 inch ceilings faced by many of our competitors. The new mill can also produce plate in thicknesses ranging from 3/16 to 8 inches.

8. As a result of these investments, our Portland Mill now has significantly more finishing capacity (approximately 1.2 million tons) than slab making capacity (approximately [] tons). Maintaining this slab-making deficit has proven successful for Oregon Steel, because the market for our finished flat products has gyrated up and down between approximately 1.2 million and [] tons per year. As we try to adjust to these changes, it is far more practical and cost effective for us to alter the

output of our Combination Mill than it is to adjust the output of our meltshop. Increasing slab capacity to meet peak cyclical demand would be financially ruinous during cyclical downturns.

9. Oregon Steel also does not try to produce every grade and size of slab required by our plate customers. The western U.S. steel market (unlike the market back East) is comprised of many consumers typically requiring small orders with a wide variety of metallurgical qualities and specifications. It would not be practical or cost-effective for Oregon Steel to develop the internal ability to make slabs to satisfy each of these requirements. Instead, we rely on slab purchases to meet these specific needs. For example, in order to make heavy gauge (e.g., 3 inch) plate, we have to start with slabs that are 12 to 15 inches thick. Oregon Steel does not make slab that thick, so we purchase it from other slab producers. We have not been able, however, to source slab that thick from any U.S. producer.

10. In order to meet our needs for purchased slabs, Oregon Steel is constantly on the lookout for reliable, long-term suppliers of slabs. The U.S. merchant market for slabs is, however, virtually non-existent. Domestic demand exceeds domestic supply. Moreover, almost all of the slabs that are produced in the United States are captively consumed within the producer's facility for processing into finished products. We are not aware of any domestic mini-mills that offer slabs for sale on the merchant market.

11. The shortage of slabs is especially acute in the western U.S. steel market. All but one integrated slab producer is located east of the Rocky Mountains. Even if these integrated producers had any slabs for sale that met our dimensional and chemical

specifications, the freight expense would be prohibitive. On [], we received quotations from [] to ship full rail car loads of slabs to our Combination Mill in Portland of [] per ton from Geneva Steel's mill in Vineyard, Utah; [] per ton from Bethlehem Steel's mill in Burns Harbor, Indiana; and [] per ton from Bethlehem Steel's mill in Sparrows Point, Maryland.

12. One U.S. supplier that we have purchased a small amount of slabs from in the past is Geneva Steel in Utah. Geneva is the only mill located west of the Rockies. Geneva is theoretically able to provide some of our slab requirements but as a matter of commercial fact, it is not a viable supplier.

13. In late 1999, Oregon Steel negotiated an initial slab trial order for [] tons with Geneva. The first slabs started arriving in January of 2000. Out of the [] chemical slab specifications that Oregon Steel purchases, Geneva could only meet [] In other words, we had to compromise these [] specifications in order to use any slabs from Geneva. One of the reasons we do not like to do this is that it limits our ability to use the slabs in other applications for different products.

14. The initial plate production trials using Geneva's slabs were [] we could only roll the slabs into plate thicknesses that were below one inch. This was not what we had planned to do with this material.

15. The second slab trial order was for [] tons in the second quarter of 2000. This time, the slab chemistry was limited to []. The slabs

started arriving in June 2000. Again, trial productions revealed [].

As a result, the slabs had to be rolled into plates having a thickness below one inch.

16. Oregon Steel's most recent attempt to qualify Geneva as a slab supplier was in the spring of 2001. In March, I visited Geneva Steel along with our slab metallurgist to discuss past quality problems, slab production revisions to improve slab quality, and to set up a trial order. In April of 2001, we again visited Geneva Steel to discuss technical issues and a plan for additional slab purchases. The next slab purchase was established and slab production was scheduled to begin when Geneva's second blast furnace was repaired and start-up finalized. Geneva informed us that the schedule for start-up was May. In reliance on Geneva's representations, Oregon Steel held open its slab purchases in order to purchase slabs produced by Geneva. However, Geneva cancelled the start-up of its furnace at the last minute, and Oregon Steel had to scramble to purchase slabs on the open market to fill the gap left open by Geneva's cancellation of our order.

17. As a result of Geneva's actions, Oregon Steel had to pay a premium over market price to obtain slabs that were needed to meet production schedules. To date, Geneva has not become fully approved as a slab supplier to Oregon Steel. In fact, it is approved for a small number of slab types and grades that meet only about [] percent of our requirements. Moreover, Geneva Steel appears only to seek to sell slabs when demand is weak for its finished products.

18. For all of these reasons, Oregon Steel must purchase slabs from foreign producers. Attachment B to this affidavit summarizes our slab imports and purchases of domestic slabs during 1996-2000, January-June 2000, and January-June 2001. For the most part,

our imports were fairly steady up until 1998. In 1998, our Combination Mill achieved full capacity, thus increasing our need for slabs, and in 1999, the Alliance Pipe Project resulted in a spike in demand for slabs to produce large diameter pipe. During 2000, demand for our products fell. As a result, we only imported [] tons of slabs during 2000.

19. In conclusion, domestically produced slabs are (and will remain) either non-existent or in short supply, especially on the West Coast. Domestic demand far exceeds domestic supply, and the merchant market for domestic slabs is essentially non-existent. It is critical to our operations that we have the ability to source slabs from foreign producers.

I declare under penalty of perjury that the foregoing is true and correct. This 5th day of September, 2001.

-----/s/-----
Steve Rowan

Exhibit 2 (NON-CONFIDENTIAL)

AFFIDAVIT OF STEVEN M. ROWAN

1. My name is Steve Rowan. I am the Vice President of Materials and Transportation for Oregon Steel Mills, Inc. I have been with Oregon Steel for 29 years and have held my current position since 1992. I have been responsible for purchasing slabs for the last 12 years. I have personal knowledge of the facts and information set forth below.
2. I attended the hearing held before the International Trade Commission on September 19, 2001. At that hearing, Chairman Koplan requested that the members of the domestic steel industry participating in this action provide as much detailed information as possible about their attempts to purchase slabs from other domestic producers since 1996.
3. Subsequent to that hearing, I reviewed company records, and discussed this subject with others at Oregon Steel to identify as much information as I could concerning Oregon Steel's attempts to purchase slabs from other domestic producers of slabs since 1996.

Attempts to Purchase Slabs - 1996

4. Prior to 1997, Oregon Steel's Portland Mill had more melting capacity than finishing capacity. As a result, Oregon Steel bought very few slabs. Of the slabs purchased in 1996, [] percent were heavy rolled ingot slabs, for use in producing heavy plate, that were not available in the U.S. The remaining slabs were purchased to qualify German and Japanese mills under our ISO 9000 quality standards in carbon and alloy

specifications, in preparation for the startup of our new Steckel combination rolling mill (the “Combination Mill”). The Combination Mill, and its effect on our operations, are discussed more fully in my September 5 affidavit (Exhibit 17 to our Prehearing Brief).

1997

5. The impending startup of the Combination Mill in 1997 promised to give our Portland Mill significantly more finishing capacity (approximately 1.2 million tons) than slab making capacity (approximately []). As a result, we began investigating sources for slab purchases.

6. Oregon Steel bought only a minimal amount of slabs in 1997, however, because the startup of the Combination Mill was delayed due to computer software problems. [] percent of the slab purchases we did make were for heavy ingot slabs not available in the U.S. The remaining slabs were high-quality Japanese slabs for mill qualification in coil products.

1998

7. In 1998, [] percent of the slabs Oregon Steel purchased were for our Alliance Pipeline Project. To the best of my knowledge, no other North American plate or slabs, other than those produced by Oregon Steel itself, were used in this project, because of the high Charpy impact values required by the customer. The rest of the slabs purchased for the year were purchased either to qualify future potential suppliers, or to assist Oregon Steel in quick delivery as the ramp-up for the Combination Mill finally began.

8. Oregon Steel purchased slabs from one domestic producer in 1998. In September, Oregon Steel purchased a [] trial of “slingot” heavy slabs from Erie Forge and

Steel Company. Erie missed the required chemistry on one heat, however, and Oregon Steel did not accept the heat. Erie did not remake the heat.

1999

9. [] percent of the slabs Oregon Steel purchased in 1999 were API X-70 grade, for the Alliance Pipeline Project. No domestic mill was capable of producing slabs to the exact chemistry required. The rest of the slabs purchased were carbon and alloy slabs that were supplied and purchased on a long-term contract with the [] for fourth quarter 1999 through second quarter 2000. In April, we contacted Ipsco, but we did not agree on a purchase.

2000

10. In 2000 the pipe business virtually vanished, so very little API slab was purchased. As a result, Oregon Steel was required to compete to a larger degree in the commercial or trade plate arena. Most of the trade plate type slabs were purchased under the 1999-2000 contract with [].

11. Oregon Steel purchased slabs from one domestic producer in 2000. In January, we purchased [] from Geneva Steel. In June, we purchased another [] tons from Geneva.

12. Oregon Steel also inquired about potential purchases from other producers, but without success. In April, we contacted Bill Klemmensen of Ipsco. Mr. Klemmensen stated that Ipsco did not have any excess melting capacity in the second quarter, and indicated that Oregon Steel should call back in early June to inquire about third quarter availability.

13. In July, we contacted Patty Felix at Bethlehem Steel. We were not able to conclude a deal, however, because of the high rail freight rate involved in shipping to the West Coast.

2001

14. Through September 2001, [] percent of the slabs Oregon Steel has purchased have been API X-70 line pipe grades. Many foreign and domestic mills have repeatedly declined even to attempt trial production runs of the X-70 grades, because of the difficulty in producing these grades.

15. Oregon Steel has made several contacts with domestic suppliers in 2001, to no avail. In January, we contacted Marcus Phillips at Geneva, who stated that they had no first quarter availability. In April, we sent specs to John Campo at Tuscaloosa Steel, but received no response. In April, we also contacted Patty Felix at Bethlehem Steel, but we were told that no slabs were available at Burns Harbor or Sparrows Point. Also in April, we arranged for a purchase of slabs from Geneva Steel, discussed at greater length below. In May, we contacted U.S. Steel, but we were told that no slabs were available. Also in May, we contacted Tuscaloosa Steel, but we concluded that rail freight rates made them noncompetitive. Later that month, we had a conference call with Tuscaloosa to review technical details. Finally, in September we contacted National Steel, but we were told that no slabs were available.

Geneva Steel

16. As noted above, we have purchased a small amount of slabs from Geneva Steel in Utah. Geneva is the only mill located west of the Rockies that is theoretically able to provide slabs, but in practice it is unable to meet our requirements.

17. In his September 20 testimony before the International Trade Commission, Ken Johnsen, Geneva's CEO, claimed Geneva could meet 75 percent of Oregon Steel's slab specifications. (Transcript p. 1086). Later in the same testimony, Mr. Johnsen stated that while he did not know the exact percentage of Oregon Steel specifications for which Geneva had been qualified, he believed Geneva could make "the vast majority of their specifications." (Transcript p. 1127).

18. Mr. Johnsen has been given erroneous information. Based on my knowledge of Oregon Steel's specifications and my contacts with Geneva, in my estimation Geneva can theoretically produce no more than [] percent of the types of slabs Oregon Steel requires. Furthermore, in practice Geneva can meet an even smaller fraction of our requirements.

19. As I mentioned in my September 5 affidavit, in late 1999 Oregon Steel negotiated an initial slab trial order for [] tons with Geneva. The first slabs started arriving in January of 2000. Out of the [] chemical slab specifications that Oregon Steel purchases, Geneva could only meet [] In other words, we had to compromise these [] specifications in order to use any slabs from Geneva.

20. The initial plate production trials using Geneva's slabs were [] we could only roll the slabs into plate thicknesses that were below one inch. This was not what we had planned to do with this material.
21. The second slab trial order was for [] tons in the second quarter of 2000. This time, the slab chemistry was limited to []. The slabs started arriving in June 2000. Again, trial productions revealed []. As a result, the slabs had to be rolled into plates having a thickness below one inch.
22. Oregon Steel's most recent attempt to qualify Geneva as a slab supplier was in the spring of 2001. In March, I visited Geneva Steel along with our slab metallurgist to discuss past quality problems, slab production revisions to improve slab quality, and to set up a trial order. In April of 2001, we again visited Geneva Steel to discuss technical issues and a plan for additional slab purchases. The next slab purchase was established and slab production was scheduled to begin when Geneva's second blast furnace was repaired and start-up finalized. Geneva informed us that the schedule for start-up was May. In reliance on Geneva's representations, Oregon Steel held open its slab purchases in order to purchase slabs produced by Geneva. However, Geneva cancelled the start-up of its furnace at the last minute, and Oregon Steel had to scramble to purchase slabs on the open market to fill the gap left open by Geneva's cancellation of our order.
23. As a result of Geneva's actions, Oregon Steel had to pay a premium over market price to obtain slabs that were needed to meet production schedules. To date, Geneva has not become fully approved as a slab supplier to Oregon Steel. Contrary to Mr. Johnsen's

testimony, by my calculation Geneva is capable of making at most [] percent of the types of slabs Oregon Steel needs. I arrived at this figure in the following way.

24. API X-70 has become a significant segment of our business. In fact, it is currently [] percent of our production, and this rate will be maintained for at least the next 1½ years. During our visits on March 7-8, 2001 and April 10-11, 2001, Geneva stated that they would prefer producing basic carbon steel such as A-36. They did not want to produce API X-70 slab because of the inherent difficulty associated with these grades. Geneva does not have a vacuum degasser, and all of our current suppliers vacuum degas all API X-65 and X-70 slabs as a precaution against surface defects and potential slab cracks.

25. Plate over 1 inch thick is another [] percent of our business. Due to surface defects, Geneva Steel slabs are restricted to 1 inch or less, and could not be used for 1-1/8 inch to 6 inch plate. Geneva Steel is not an approved slab supplier for these products, nor has Geneva performed or met the Oregon Steel quality standards to become an approved supplier.

26. Another [] percent of Oregon Steel's plate business is quench and temper alloy and armor. Geneva has never melted anything remotely close to these grades and could not make these without a vacuum degasser and many years of research and development.

27. Finally, approximately [] percent of Oregon Steel's business is in ASTM A-588 Grade A & B. These grades are used for domestic bridge construction. As of our last meeting with Geneva Steel, they had not been successful melting these grades.

28. Thus, added together, Geneva is unable to produce [] percent of the slab types used by Oregon Steel (API X-70: [] percent; thicker than 1 inch: [] percent; quench and tempered and armor: [] percent; ASTM A-588: [] percent).

29. In addition, while Geneva can in theory produce [] percent of the slabs Oregon Steel needs, we can also produce these slabs in our own melt shop. The prices that Geneva has offered to Oregon Steel are more than [] per ton over our own production costs. As a result, we would choose to melt these grades ourselves.

30. The prices Geneva offered in March and April, 2001 for slabs were between [] per ton less than the sales price for finished plate. The best plate mills in the world would incur rolling costs of at least [] per ton. Thus, at these prices we would have lost money on the purchase of Geneva slabs in the conversion to plate.

31. Finally, Geneva's precarious financial position is an ongoing concern to Oregon Steel. It would be very difficult to spend thousands of dollars teaching Geneva – a competitor – techniques that Oregon Steel has spent decades and hundreds of thousands of dollars developing, knowing full well that Geneva could go out of business, or worse, start competing with this knowledge of specialty plate against Oregon Steel.

I declare under penalty of perjury that the foregoing is true and correct. This 26th day of September, 2001.

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Steve Rowan